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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,411	12/10/2001	Yoshitaka Mishima	SHC0163	8643

7590

05/04/2004

Michae; S Gzybowski
Butzel Long
350 South Main Street
Suite 300
Ann Arbor, MI 48104

EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

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DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/016,411

Applicant(s)

MISHIMA ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanji et al. (5,304,159) in view of Sayama (EP 0 908 162 A2).

Tanji discloses all aspects of the claimed invention with the exception of the transverse opposite outer terminal sides edges of the skin-facing sheet being spaced apart from the transverse opposite outer terminal side edges of the topsheet. Tanji discloses a disposable undergarment, as shown in figure 1, having longitudinally opposite end regions and transversely opposite side regions. The garment further comprises a liquid impervious base sheet 12, a liquid absorbent panel 13, and a liquid pervious topsheet 11, as shown in figure 2. An elastically stretchable skin-facing sheet 14 is attached to the skin-facing side of the topsheet 11. The skin-facing sheet 14 comprises fixed regions on longitudinally opposite end regions, a longitudinally middle region, and a pair of transversely opposite side regions helping define leg-holes, as shown in figure 1. The topsheet 11 and skin-facing sheet 14 are substantially coextensive in the transverse direction, as shown in figure 1. The longitudinal central portion of the skin-facing sheet 14 has a width that is smaller than a width of the underlying central portion of the topsheet 11, as shown in figure 2. The basis weight

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and tensile strength of the skin-facing sheet 14 is higher in the transversely opposite side regions 18, than in remaining regions, since the skin-facing sheet is folded onto itself in regions 18, as shown in figure 2.

Sayama discloses a disposable undergarment, as shown in figure 1, comprising a liquid pervious topsheet 6 and an elastically stretchable skin-facing sheet 30. The skin-facing sheet 30 is bonded to the topsheet 6 inward of the transversely opposite outer terminal side edges of the topsheet 6, as shown in figure 1. Sayama discloses in column 3, lines 46-51, that this embodiment is equivalent to having the transversely opposite outer terminal side edges of the skin-facing sheet coextensive with the opposite outer terminal side edges of the topsheet.

It would have been obvious to one of ordinary skill in the art at the time of invention to make the skin-facing sheet of Tanji have opposite outer terminal side edges spaced apart from the opposite outer terminal side edges of the topsheet, since the examiner takes official notice of the equivalence of these embodiments, and the selection of either embodiment would be within the level of ordinary skill in the art.

With respect to claim 2, the basis weight and tensile strength of the skin-facing sheet 14 is higher in the peripheral edge region 19 of the opening, since the skin-facing sheet is folded onto itself at regions 19, as shown in figure 2.

With respect to claim 3, a bulging line 23 extends on the skin-facing sheet 14 in the longitudinal direction in a vicinity of the longitudinal center line, as shown in figure 1.

With respect to claim 4, the skin-facing sheet 14 is folded onto itself at transversely opposite side regions 18 and peripheral edge regions 19, as shown in figure 2.

With respect to claim 7, the transversely opposite side regions 18 lie inwardly of the transversely opposite side regions of the base sheet 12, as shown in figure 2.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanji et al. (5,304,159) in view of Sayama (EP 0 908 162 A2) as applied to claim 1 above, and further in view of Mishima et al. (6,527,756).

Tanji, as modified by Sayama, discloses all aspects of the claimed invention with the exception of leak-barrier sheets. Mishima discloses a disposable undergarment comprising a pair of leak-barrier sheets 18, as shown in figure 6, extending in a longitudinal direction along transversely opposite side regions of the garment, fixed to a skin-facing sheet 7 and a liquid pervious topsheet 2. The leak-barrier sheets 18 prevent leakage while still allowing the garment to be breathable, as disclosed in column 6, lines 46-51.

It would therefore be obvious to one of ordinary skill at the time of invention to construct the garment of Tanji with leak-barrier sheets, as taught by Mishima, to prevent leakage while still allowing the garment to be breathable.

Allowable Subject Matter

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Response to Arguments

Applicant's arguments with respect to claims 1-5 and 7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

UNA
cla
April 29, 2004


JOHN W. CALVERT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700